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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 10/748,442
Filing Date: December 29, 2003
Appellant(s): COOKSON ET AL.

Irvin E. Branch
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed July 14, 2008 appealing from the Office action mailed March 25, 2008.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

| | | |
|---|---|---|
| 2005/0114364 | Tebbs et al. | 5-2005 |
| 2004/0083226 | Eaton | 4-2004 |

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

**1.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**2.** Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Tebbs et al (US Publication no. 2005/0114364)**.

Regarding claims 1 and 11, Tebbs discloses a system for creating a family tree, comprising the method of receiving a request from a user to return a file comprising the family tree (paragraph 0066-0067); use a plurality of primary source records to construct the family tree based on the request, wherein the records indicate multiple alternatives for at least one person of the family tree, and wherein the records comprise correlated records having been subjected to one of an individual correlation process and a relationship correlation process to thereby determine a likelihood that two or more of the records represent the at least one person (paragraphs 0025-0031, 0039-0042, 0056);

send a file comprising the family tree to the user, wherein the file comprises the alternatives (figure 4; paragraph 0054).

**3.** Regarding claims 2 and 12, Tebbs discloses a system for creating a family tree, wherein an alternative results from a difference relating to a selection from the group consisting of spelling, place, date, event, relationship, ancestor, spouse, and children (paragraph 0030 and 0070, claim 2).

***Claim Rejections - 35 USC § 103***

**4.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**5.** Claims 3-10 and 13-19 are rejected under 35 U.S.C. 103(a) as being anticipated by **Tebbs in view of Alan Eaton (US Publication no. 2004/0083226)**.

Tebbs discloses all the claimed elements as explained above except for the user being able to select from among the alternatives. However, Eaton discloses such a user selecting option for easy transmission of genealogical data (abstract). It would have been obvious by one having ordinary skill in the art, at the time of the invention, to combine the systems and methods of Eaton with the linking and matching method of Tebbs to improve the quality of the genealogical data (paragraph 0006-0007).

Regarding claims 3-6 and 13-16, Eaton discloses a system for creating a family tree, wherein the processor is further programmed to provide an opportunity for the user

to select among the alternatives (paragraphs 0036-0038, 0049-0050); wherein the processor is further programmed to receive a selection from among the alternatives from the user, store the selection, use the selection to revise the family tree; and send a file comprising the revised family tree to the user; wherein the processor is further programmed to use the selection to provide an alternative to another user; and wherein the processor is further programmed to thereafter receive a non-contemporaneous request from the user to view the family tree; use the stored selection to construct the family tree; and send a file comprising the family tree to the user, wherein the family tree comprises the revised family tree (paragraphs 0041-0043, 0049-0051).

**6.** Regarding claims 7-9 and 17-19, Eaton discloses a system for creating a family tree, wherein the processor is further programmed to receive additional genealogy data that creates new alternatives in the family tree; and notify the user of the new alternatives; wherein in being programmed to notify the user of the new alternatives, the processor is further programmed to send the user an email; and wherein in being programmed to notify the user of the new alternatives the processor is further programmed to send the user a file comprising the family tree, wherein the file includes a new alternatives symbol (paragraphs 0036, 0041, 0053-0054).

**(10) Response to Argument**

**I (Issue): did the Examiner err in concluding that claims 1, 2, 11 and 12 are anticipated by Tebbs et al (US Publication No. 2005/0114364), hereafter referred to as Tebbs.**

- *In the first argument on page 5, the Appellant asserts: "Tebbs does not teach multiple alternative records for at least one person. Tebbs appears to teach a system and methods to "quantify the quality of genealogical data… Tebbs teaches a method wherein users may rate the quality of the information presented for an individual, but Tebbs does not teach " records [that] indicate multiple alternatives for at least one person of the family tree"".*

The Examiner disagrees with the Appellant's argument. First of all, the Examiner would like to define the term "record" which according to the Webster's Encarta Dictionary (Second Edition) is described as a collection of data. Thus in accord with this definition, the Examiner interprets plurality of events or links illustrated in figure 4, elements 440, 442, 444, 448 and 450 as plurality of records pertaining to an individual. Furthermore, those records could be interpreted as alternative records because all those events and links are associated with a single individual, thus based on the event and its details, a person linked to them could be identified. Moreover, the reports/events could be used interchangeably in the process of the identification, hence they could be considered alternative records. Consequently, the Examiner maintains that Tebbs indeed teaches multiple alternative records for at least one person.

- *Furthermore on the same the Appellant alleges: "While Tebbs appears to teach a rating system for genealogical data, Tebbs does not teach either an individual correlation process or a relationship correlation process that "determine a likelihood that two or more of the records represent the at least one person."".*

The Examiner disagrees with the Appellant's assertion. Tebbs teaches a rating system that allows determining whether or not records, for instance event and/or relationship, are obtained from reliable sources so that it could be determined if the submitted or existing record truly describes an individual with whom it is associated. In other words determining validity of a record based on the original source, does relate and describe the likelihood that the report is indeed corresponding to the certain individual. For instance, if a record is received from an unknown source and it states that a person A was born in USA on July 3rd, 2000, the likelihood that this person was born in this country at this time is low especially if it is contrary to a Christening record stating something different. Thus as shown in Figure 6, the source type plays a big role in determining likelihood that the record does describe a particular individual. Furthermore, as recited in paragraph [0054], the rating (i.e. likelihood) is determined in order to properly identify a person, or confirm that records truly describe certain individual or in other words determining link-rating. Consequently, the Examiner maintains that Tebbs indeed teaches determining likelihood that two or more of the records represent the at least one person.

**II (Issue): did the Examiner err in concluding that claims 3-10 and 13-19 are unpatentable over Tebbs in view of Eaton (US Publication No. 2004/0083226).**

- *In the first argument on page 5 bridging to page 6, the Appellant asserts "neither Tebbs nor Eaton teaches or suggests "providing an opportunity for the user to select among the alternatives; ... thereafter, receiving additional genealogy data that creates new alternatives in the family tree; and notifying the user of the new alternatives, wherein notifying the user comprises sending the user a file comprising the family tree, wherein the file includes a new alternative symbol… Tebbs does not teach alternatives for individuals, although Tebbs appears to teach a rating system for data relating to a particular individual. Eaton does not cure the deficiency. Eaton appears to teach methods for improving the efficiency of downloading, but is specifically limited to structures in which only different individuals are represented".*

The Examiner disagrees with the above allegation. First of all, the Examiner maintains that Tebbs does teach alternatives for the individual, because each record associated with this individual whether it is an event or a relationship link to another member of a family, is considered an alternative. Second of all, the Examiner also maintains that Eaton teaches the above recited limitations. It is true that Eaton teaches efficient data downloading, but his invention is not solely concerned with downloading

alone. In particular, Eaton is also concerned with the manner in which the information is conveyed to a user. For instance in paragraph [0041], Eaton clearly discloses that the data received depends on the "amount of genealogical data requested", thus it would produce different tree structure wherein each node represents an individual. Moreover adding a new individual to the tree would also result in alteration of this tree, hence once the user would request specific information pertaining to the modified genealogical tree, the new alternative would be sent to the user. Consequently, the Examiner maintains that Tebbs and Eaton teach all of the limitation stated above in the argument.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Angela M Lie/

Examiner, Art Unit 2163

Conferees:

Don Wong (SPE of AU 2163)

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